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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,710	02/05/2004	Jan S. Temler	IP-025287	S625
1726	7590	06/20/2007	EXAMINER	
INTERNATIONAL PAPER COMPANY			BEAUCHAINE, MARK J	
6285 TRI-RIDGE BOULEVARD			ART UNIT	PAPER NUMBER
LOVELAND, OH 45140			3653	
MAIL DATE		DELIVERY MODE		
06/20/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/772,710	TEMLER ET AL.	

Examiner	Art Unit	
Mark J. Beauchaine	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 March 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,4-6,9,10 and 13-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1,4-6,9,10,13-25 and 30 is/are allowed.
- 6) Claim(s) 26-29 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 March 2007 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Correspondence

The present application was filed containing a power of attorney to Mr. Kenneth R. Schaefer and Ms. Evelyn Sommer. A correspondence address was supplied for Mr. Schaefer. No address was supplied for Evelyn Sommer.

Mr. Schaefer was suspended from practice before the Patent and Trademark Office (Office). The Office does not communicate with attorneys or agents who have been suspended or excluded from practice.

As a correspondence address, other than to Mr. Schaefer, is not of record, this Office action is being mailed to Ms. Sommer at her last known address as listed on the register of patent attorneys and agents.

Drawings

37 CFR 1.84(p)(3) states, in part, that "[n]umbers, letters and reference characters must measure at least .32 cm. (1/8 inch) in height." New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because Figure 3b of Replacement Sheet dated 12 March 2007 fails to comply with said requirement.

Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "means for biasing" (claim 26, line 10) lacks sufficient antecedent bases.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patent Number US 6,371,304 B2 by Gambini ("Gambini") in view of Patent Number 5,082,118 by Rintala et al ("Rintala"). The self-clearing conveying apparatus disclosed by comprises shield 36 disposed between adjacent ends of upstream conveyor 22 and down stream conveyor 30 (see Figures 2 and 5) and configured to cover less than all of a gap between said conveyors. Said shield having a proximal side edge disposed adjacent the end of said upstream conveyor, thereby defining an opening for the

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discharge of debris associated with products 12 being transferred between said conveyors.

Gambini further discloses means for mounting said shield 37, comprising a shaft means, for selected degrees of covering relationship to the gap between the conveyors, means for biasing said shield 38 toward a position of maximum coverage of the gap while permitting automatic movement of said shield towards a position of reduced coverage as a function of the application of a force initiated by a clog of debris associated with the products being transferred, and means for receipt of opposite ends of said shaft for guiding and limiting a permissible hinged movement of said shield.

Gambini fails to disclose said shaft means being mounted at said proximal side edge of said shield. Rintala teaches shield 12 that is positioned between adjacent edges of upstream and down stream conveyors 2 (see Figure 4) and has a proximal side edge disposed adjacent the end of said upstream conveyor, and shaft means rotatably mounting the proximal side edge of said shield for the purpose of selectively permitting the discharge of debris through the gap of said conveyors. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the shaft means/proximal side edge configuration of Rintala into the conveying apparatus of Gambini for the purpose of selectively permitting the discharge of debris through the gap of said conveyors.

Allowable Subject Matter

Claims 1, 4-6, 9, 10, 13-25 and 30 are allowed. Claim 27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments, see page 12, lines 1-13, filed 12 March 2007, with respect to claims 1, 4-6, 9, 10, 13-25 and 30 have been fully considered and are persuasive. The rejection of said claims has been withdrawn. Regarding claims 26, 28 and 29, the Applicant's arguments have been fully considered but they are not persuasive. Since said claims lack the limitation of a generally laterally hinged movement of a mounting means of said shield they fails to overcome the above-mentioned rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark J. Beauchaine whose telephone number is (571)272-6934. The examiner can normally be reached on 8:00AM through 5:00PM Mondays through Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick H. Mackey can be reached on (571)272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mjb



PATRICK MACKEY
SUPERVISORY PATENT EXAMINER
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